

ARKANSAS SUPREME COURT

No. CR 96-900

JAMES BERNARD GILES
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered May 7, 2009

PRO SE MOTION FOR
PHOTOCOPYING AT PUBLIC
EXPENSE [CIRCUIT COURT OF
PULASKI COUNTY, CR 95-2567]

MOTION DENIED.

PER CURIAM

Petitioner James Bernard Giles, a prisoner incarcerated in the Arkansas Department of Correction, has filed a motion in this court requesting copies of certain documents be provided to him under the Arkansas Freedom of Information Act, Arkansas Code Annotated §§ 25-19-101 – 25-19-109 (Repl. 2002 and Supp. 2007), at public expense, along with a petition to proceed *in forma pauperis* and an affidavit of indigency. Petitioner requests copies of transcripts and documents for certain dates from his trials in both Pulaski County Circuit Court and Perry County Circuit Court on a number of charges. He provides three docket numbers, apparently from the circuit court, for the cases. Our docket shows only one listing for petitioner, referencing one of the circuit court case numbers he provides, that indicates a partial record was lodged with motions to proceed *in forma pauperis* and for an extraordinary writ that were denied without opinion.¹ We have no record concerning the other cases that petitioner requests.

¹ For clerical purposes, the motion for copies has been filed under the docket number of that case.

As to the partial transcript that is on file in this court, petitioner has not identified any specific postconviction relief that may be available to him or any proceeding that has been filed concerning the case. He states only that the information he desires is “vital in my request to the court to grant collateral review” and that he is indigent. He does not identify specific allegations or demonstrate that the materials he seeks are required in order to raise the allegations in a proceeding he has initiated.

Indigency alone does not entitle a petitioner to free photocopying. *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). A petitioner is not entitled to a free copy of material on file with this court unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *Id.* The Freedom of Information Act does not require an appellate court to provide photocopying at public expense. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (per curiam). Because petitioner has not demonstrated a compelling need, we deny the motion.

We note that when an original action has been filed in this court, the material pertaining to it remains permanently on file with the clerk, unless it is being maintained under seal. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam).

Motion denied.